

## **§ 50.55**

designated insurer, Treasury's payment obligation to the insurers in the affiliated group with respect to any insured losses covered on the applicable bordereau is discharged to the extent of the payment.

### **§ 50.55 Determination of Affiliations.**

For the purposes of subpart F, an insurer's affiliates for any Program Year shall be determined by the circumstances existing on the date of occurrence of the act of terrorism that is the first act of terrorism in a Program Year to be certified by the Secretary for that Program Year.

[70 FR 34351, June 14, 2005]

EFFECTIVE DATE NOTE: At 70 FR 34351, June 14, 2005, § 50.55 was added to subpart F, effective July 14, 2005.

## **Subpart G—Audit and Investigative Procedures**

### **§ 50.60 Audit authority.**

The Secretary of the Treasury, or an authorized representative, shall have, upon reasonable notice, access to all books, documents, papers and records of an insurer that are pertinent to amounts paid to the insurer as the Federal share of compensation for insured losses for the purpose of investigation, confirmation, audit and examination.

### **§ 50.61 Recordkeeping.**

Each insurer that seeks payment of a Federal share of compensation under subpart F of this part shall retain such records as are necessary to fully disclose all material matters pertinent to insured losses and the Federal share of compensation sought under the Program, including, but not limited to, records regarding premiums and insured losses for all commercial property and casualty insurance issued by the insurer and information relating to any adjustment in the amount of the Federal share of compensation payable. Insurers shall maintain detailed records for not less than 5 years from the termination dates of all reinsurance agreements involving commercial property and casualty insurance subject to the Act. Records relating to premiums shall be retained and available for review for not less than 3 years

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following the conclusion of the policy year. Records relating to underlying claims shall be retained for not less than 5 years following the final adjustment of the claim.

[68 FR 59720, Oct. 17, 2003, as amended at 69 FR 39307, June 29, 2004]

## **Subpart H—Recoupment and Surcharge Procedures [Reserved]**

## **Subpart I—Federal Cause of Action; Approval of Settlements**

SOURCE: 69 FR 44941, July 28, 2004, unless otherwise noted.

### **§ 50.80 Federal cause of action and remedy.**

(a) *General.* If the Secretary certifies an act as an act of terrorism pursuant to section 102 of the Act, there shall exist a Federal cause of action for property damage, personal injury, or death arising out of or resulting from such act of terrorism, pursuant to section 107 of the Act, which shall be the exclusive cause of action and remedy for claims for property damage, personal injury, or death arising out of or relating to such act of terrorism, except as provided in paragraph (c) of this section.

(b) *Effective period.* The exclusive Federal cause of action and remedy described in paragraph (a) of this section shall exist only for causes of action for property damage, personal injury, or death that arise out of or result from acts of terrorism that occur or occurred during the effective period of the Program.

(c) *Rights not affected.* Nothing in section 107 of the Act or this Subpart shall in any way:

(1) Limit the liability of any government, organization, or person who knowingly participates in, conspires to commit, aids and abets, or commits any act of terrorism;

(2) Affect any party's contractual right to arbitrate a dispute; or

(3) Affect any provision of the Air Transportation Safety and System Stabilization Act (Pub. L. 107-42; 49 U.S.C. 40101 note).